

VAdvisors, LLC

Strategic Advisors

November 30, 2009

Jonathan Adelstein
Administrator, Rural Utilities Service
Broadband Initiative Program
U.S. Department of Agriculture
1400 Independence Ave, SW
Washington, DC 20250

Lawrence Strickling
Assistant Secretary for Communications and Information
Broadband Technologies Opportunity Program
National Telecommunications and Information Administration
U.S. Department of Commerce
HCHB Room 4887
1401 Constitution Ave, NW
Washington, DC 20230

Re: Joint RFI - Broadband Initiatives Program and Broadband Technologies
Opportunities Program – Comments.

Dear Administrator Adelstein and Assistant Secretary Strickling:

I am writing to comment on the requirements for applying for broadband/internet funding under the economic stimulus package known as the American Recovery and Reinvestment Act (ARRA). I am particularly referring to the funds that are to be made available for Tribes and private companies to build broadband/internet infrastructure on and around Indian Country. It is my view that there are a number of requirements in the application process that make it difficult, if not impossible, for providers looking to serve Indian Country to meet and therefore effectively block meaningful funding for Indian Country. It is also my considered view that the concerns raised by Tribal leaders with the RUS and NTIA emphasize the need for changes in the application and evaluative process so as to give equitable treatment to Tribal based requests.

Brief Background

I am a member of the Rosebud Sioux Tribe of South Dakota; a graduate of the University of South Dakota Business School and the University of Minnesota Law School. I have held senior executive positions with public and private firms with over 25 years of extensive experience in the areas of investment banking; management of public, private and government operations; strategies for restructuring with particular expertise in Tribal gaming and gaming manufacturing.

Currently, I am the Managing Director of VAdvisors, LLC - a specialty advisory firm providing consulting services and guidance in areas of strategic planning, capital development, mergers & acquisitions, crisis management, growth planning, new product development, and operational evaluations. The firm also specializes in the areas of American Indian policy and issues focusing primarily on Tribal Government Gaming and related business issues.

Over the past several months I have assembled a team of partners and investors to form Tehal Woglake (TW). *Tehal Woglake* is Lakota that translates as “far talking”, an appropriate description of the business objectives of this venture. It is the tradition of the Lakota and all Native people to meet as a community to “talk” about future plans. These gatherings are vital to the life of the community making sure that ideas and plans are shared with all. The capabilities of the broadband network offered to Indian Country will allow Tribal governments, Tribal members, and surrounding communities to “talk” with all corners of the world in ways and at speeds that have not been generally available.

TW is a one of a kind public-private enterprise to address the opportunity the national WiMAX build out presents to provide wireless broadband Internet services to un-served and underserved Tribal communities and adjacent clustered service areas.

TW is built upon the follow key principals

- A compelling need for broadband internet service in Indian Country and adjacent clustered service areas.
- Large profitable market opportunities in Indian Country and adjacent clustered service areas.
- The technology embodied in WiMAX 4G presents a cost effective vehicle for delivery of broadband to Indian Country and adjacent clustered service areas.
- The availability of funding from various government sources, such as the American Recovery and Reinvestment act, present a once-in-a-life-time opportunity to make infrastructure investments with commercially attractive rates of return.
- Tribes and tribally-sponsored entities are strong business partners that provide unique access to underserved and unserved markets not previously recognized.
- Providing access to broadband internet service to Indian Country and adjacent clustered service areas will strengthen all communities served and create opportunities to improve economic development, healthcare, and education.

Comments

- My overriding comment - Bottom line: in order for broadband in Indian Country to succeed in the long-term, sufficient private and public capital must be invested in the projects overall so that the network will continue to be supported and improved. The application and evaluative process must be structured to facilitate and encourage these investments.
- The application and the evaluative process must provide a preference for Tribal providers and/or Indian-owned providers with Tribal approval, on Tribal lands and clustered service areas. Otherwise Indian Country will occupy the same position they have always held - last on the list. If clustered service areas are not included in the overall definitions used for evaluation there will be very little incentive for broadband spectrum and capital to become involved. One of the numerous limitations imposed by current "Indian Land" definitions is an almost certain lack of a sufficient population to make a viable long-term business plan. This makes an ongoing the upkeep and investment dependent upon ongoing financial support from government sources. Using a definition like "clustered service area" allows for the capital investments and a public-private business model that focuses on continued improvements and a business base that is more likely to endure.
- All provisions created to recognize the unique Tribal circumstances must also apply to "Tribes and Tribal consortiums." Many Tribes are looking to combine resources with other Tribes and/or Indian-owned businesses, in order to share their limited resources and better service their communities. The term "Tribes and Tribal consortiums," as used by other governmental agencies is also limiting. In order for the term to be robust and create opportunity it must contemplate that at least one of the members of the consortium be either a Tribal government or tribally-created and controlled entity and hold a significant ownership in the overall venture. This will insure that Tribal interests are given priority and create the opportunity outlined above.
- In order to give proper recognition to the challenges of raising capital and other necessary resources the point allocation must be substantially increased. The point allocation regime used in the evaluation process must be revised when reviewing minority-owned/Tribally-owned and "Tribal consortiums." Creating motivation for a community-based component in providing broadband service will generate the highest likelihood of understanding within the community and the highest incentive to provide good service. This will also support the opportunities outlined in this letter.

- Tribes and Tribal consortiums should be able to apply directly to BTOP for grants, and not be forced to apply to RUS for loans if servicing rural communities. This will give rise to greater inducements for private capital to participate with Tribes and Tribal consortiums. Broadband in Indian Country will succeed if in the long-term, capital from a variety of sources is invested in the projects so that the network will continue to be supported and improved.
 - RUS and NTIA should consolidate the BIP and BTOP applications into a single application with optional sections for each program as necessary, including the option not to apply for a loan, nor file loan support documentation, and, in so doing, make certain the loan application is deemed electronically complete for the purposes of submission.
- Tribal land should be defined as “remote” not by proximity to urban populations based on an arbitrary number of miles, but by lack of services and barrier challenges faced by Tribal communities. There is no doubt that Indian Country is remote; with few exceptions, Tribes are situated on the least desirable and most isolated pieces of land in the U.S. To clarify further, it is also a fact that broadband deployment in Indian Country is at less than a 10 percent penetration rate (compared with 80% of the general population) while analog telephone reaches only one in three families in many Tribal communities. This is the digital divide that disadvantages Native Americans.
- RUS and NTIA must create regional tribal liaison positions to facilitate and assist in their ongoing intergovernmental coordination with Native and Tribal Entities.

Thank you for the opportunity to comment on these vital issues to Indian Country. I am willing to be of any additional assistance you may deem appropriate.

Sincerely,

A handwritten signature in dark ink, appearing to read 'J. Valandra', with a stylized flourish at the end.

Joseph Valandra